

REMARKS

Applicant respectfully requests reconsideration of the instant application on the now canceled claims and the earlier finding in the subject Office Action that certain claims were allowable.

Independent Claim 1 has been amended. Claim 2 has now been canceled. New claims 20-24 are presented.

35 U.S.C. § 102(b) Grounds for Rejection

The Examiner has principally rejected the claims as being anticipated by U.S. Patent No. 6,934,508 by Ceresoli *et al.* (*Ceresoli*). It is believed that Claims 1 to 24 are clearly distinguishable over this reference for the reasons that will be set forth.

Independent Claim 1 recites the following elements, the most pertinent to this discussion being presented in bold type for the convenience of the Examiner:

1. Method for determining the efficiency of publicity and/or broadcasted programs, which comprises the following steps:
 - a) Providing frequency-determining apparatus located in the proximity of a TV converter or FM radio;
 - b) Periodically determining the current frequency of a broadcast channel;
 - c) **Transforming said frequency into a digital word and storing same in a memory associated with said frequency-determining apparatus; and,**
 - d) **When a request is received from a remote control center, transmitting a reply which comprises the digital word stored in the memory at the time of said request.**

Applicant respectfully suggests that, in spite of a superficial resemblance of the disclosure of Ceresoli to the present invention, Ceresoli is quite different in elements that are central to the present invention. The present invention seeks to provide a simple, inexpensive means to monitor radio and TV advertisements, and to assess their effectiveness. Ceresoli, on the other hand, teaches the use of complicated and inherently expensive apparatus. This results in critical differences in the way the apparatus of the present invention is constructed and operated, when compared with that of Ceresoli.

I. Frequency Data is Polled by the Control Station As A Single String

A central advantage of the invention is the simple way in which data is provided to the control center. The invention operates such that the frequency of the station currently received is detected and then transformed into a digital word. This word is then stored in a memory and, periodically, it is re-sampled, retranslated into a digital word and re-saved in the memory, so that the memory always contains up-to-date information regarding the frequency that is being followed.

The system of the invention does not push this information to the control center, but rather waits for a request from the control center, which polls the current digital word from the monitoring device. This mode of operation saves both power and bandwidth, since data is transmitted to the control center when the center needs it, and also allows for a simple and inexpensive device to be used, because of the low memory and process power requirements.

In contrast, *Ceresoli* stores large amounts of data in its device (see col. 2, line 65 to col. 3, line 11), and pushes it periodically to the control center. As a result, the control center

receives large amounts of data whether it needs it or not at the same time, bandwidth is wasted and the device needed to implement *Ceresoli*'s method is expensive and relatively complicated.

This difference is clearly spelled out in currently amended claim 1(d), which requires a response from the device, in the form of the digital word, when a request is received. Amended claim 1 clearly does not read on *Ceresoli* and substantially differs from it, and the 102(e) rejection should accordingly be withdrawn.

It is also appropriate to note that, not only does the present invention differ from *Ceresoli*, but also presents important advantages over that particular cited reference, as pointed out above and as further discussed below.

2. Ceresoli Requires a Microphone To Listen To The Speaker

The teaching of *Ceresoli* is quite in contrast with those of the present application, which seeks to obtain reliable data. *Ceresoli* requires the use of a microphone, which listens to the speaker of the radio (see for instance col. 15, lines 17-19). While using a microphone to determine volume levels (and to infer levels of interest therefrom) can perhaps be done in a car with a single, silent driver, it becomes a liability if, for instance, two persons converse in the car, or if the driver answers the phone. Moreover, *Ceresoli*'s method is totally unsuitable for use with a house TV, which is one of the major purposes of the present invention, since home noise, such as kids speaking, dogs barking, etc, would inevitably result in false readings being transmitted to the control center, which do not reflect the level of interest of TV viewers at the relevant time.

The present invention, in contrast, is not affected by any of the above typical disturbances and is suitable for use in virtually any environment.

3. Ceresoli Needs a GPS

Ceresoli is designed to be used with mobile applications only and, therefore it requires the use of GPS data. This is not only already present in claim 1, but is the teaching throughout the specification.

The need for GPS equipment inevitably complicates the device and makes it more expensive, and additionally burdens the data transfer with much more data. Be as it may, the reader of *Ceresoli* learns that its method and system is not suitable for non-mobile applications and, therefore, *Ceresoli* teaches away from the present invention in which one of the primary purposes is to monitor home TV sets.

4. Ceresoli Needs to Connect to the Car Battery

Because of the mode in which it operates (**pushing data at predetermined time intervals**), *Ceresoli*'s apparatus is wasteful in energy. Therefore, *Ceresoli* teaches that it must be connected to the vehicle's battery and will need installation therein (see Fig. 2 and col. 6, line 63 to col. 7, line 1). This rules out portable devices that can be used, in contrast, to carry out the present invention, and severely limits the applicability of the *Ceresoli* system.

5. The Invention's Frequency Detection is Robust

Users do not listen to the radio or watch TV in a sterile environment. Therefore, radio frequency disturbances can occur, due to the presence of other electronic devices. The present invention has solved this problem, in one of its preferred embodiments, by providing for the optical reading of the display, from which the frequency can be determined. This, as is apparent

to any skilled person, can be easily done using an inexpensive, low-pixel camera, commercially available at very low cost.

The device that operates using an optical reading is claimed in newly submitted claims 20-23. There is no hint of such a mode of operation and of optical apparatus in general in *Ceresoli*, and therefore such apparatus claims have nothing in common with it and should be allowed. *Ceresoli* teaches a very different frequency detection method that has nothing in common with that of claims 20-23.

It should be further noted that *Ceresoli* appears to be a purely theoretical patent that contains unworkable teachings. For instance, the summary of the invention states as follows:

The system also includes an apparatus within the vehicle-mounted device that automatically detects the selected radio station. In an embodiment, the apparatus uses a modulator to inject AM/FM code modulated carrier signals through a directional coupler connected to the vehicle radio. The directional coupler is inserted between the radio and the vehicle's antenna. A controller then recovers AM/FM code from the speaker through a band pass filter.

and the detailed description states:

As shown in diagram 700, a directional coupler 702 is connected between the vehicle radio 204 and the radio antenna 202. In one embodiment, directional coupler 702 is a model ADC-10-1R coupler available from Mini-Circuit, Inc. of Brooklyn, N.Y. The radio 204 is connected to the radio speaker 206.

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A modulator 720 is connected to the directional coupler 702. The modulator includes an AM synthesizer 708, AM code modulator 710, FM synthesizer 712, and FM code modulator 714. Modulator 720 also includes a first switch 716 (labeled as "SW1" in diagram 700) and a second switch 718 (labeled as "SW2" in diagram 700). Switch 716 is used to define the timing for the injecting of radio signals into radio 204 by the modulator 720 through the coupled port of directional coupler 702. Switch 718 is used to select between the two modulator types (i.e., AM or FM).

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However, the system cannot work because:

1. One cannot insert an FM modulator on the FM signals that are received in the antenna. FM signal means that the modulation signal changes the signal frequency and that can be done only in the base transmitter. Once out, FM signal cannot be modulated again.
2. As for AM signals, it might be possible to modulate the signals in the antenna, but:
3. As said, the modulation signal will do nothing to the FM signal. It might do some modulation to the AM signals but the main thing is that at the antenna, there is no separation yet between the received signals. Any action done to the signal flow at that point, will affect, if any, ALL received signals. There is no way to affect one received station only by any modulation data.

New Claim

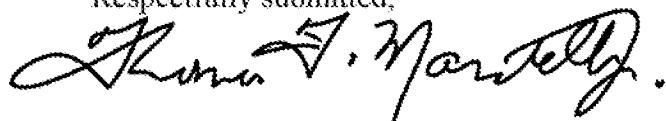
New Claims 10-24 are added to more fully claim the present invention. Claim 24 depends from Claim 1. Claim 20 is a new apparatus claim and claims 21-23 depend from claim 20. Accordingly, Applicant respectfully submits that Claims 20-24 are patentable because they include the limitations of Claim 1 and the newly added dependent claims add additional elements that further distinguish the art.

Conclusion

Applicant has now made an earnest attempt to place this case in condition for allowance. In light of the amendments and remarks set forth above, Applicant respectfully requests reconsideration and allowance of Claims 1-24.

If there are matters which can be discussed by telephone to further the prosecution of this Application, Applicant invites the Examiner to call the attorney at the number listed below at the Examiner's convenience.

Respectfully submitted,



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Date: February 9, 2010

ATTACHMENT A

**LISTING OF CLAIMS WITH MARKINGS
TO SHOW CHANGES MADE**